

QUESTIONNAIRE FOR FILING PROPOSED RULES WITH
THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY Department of Education
DIVISION Public School Finance
DIVISION DIRECTOR Patricia Martin
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INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire & financial impact statement attached to the front of two (2) copies of your proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Subcommittee on Administrative Rules and Regulations
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

- 1. What is the short title of this rule? **Rules Governing School District Audits Not Conducted by Legislative Audit.**
- 2. What is the subject of the proposed rule? **The requirements for the completion and filing of audits not conducted by Legislative Audit effective beginning on June 30, 2005, for the 2005-2006 fiscal year and each fiscal year thereafter.**
- 3. Is this rule required to comply with federal statute or regulations? Yes _____ No X _____
If yes, please provide the federal regulation and/or statute citation.
- 4. Was this rule filed under the emergency provisions of the Administrative Procedures Act?
Yes _____ No X _____
If yes, what is the effective date of the emergency rule?

When does the emergency rule expire?

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes _____ No X _____

5. Is this a new rule? Yes X No If yes, please provide a brief summary explaining the regulation. Rules to establish the requirements for the completion and filing of audits not conducted by Legislative Audit effective beginning on June 30, 2005, for the 2005-2006 fiscal year and each fiscal year thereafter.

Does this repeal an existing rule? Yes No X If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No X If yes, please attach a markup showing the changes in the existing rule and a summary of the substantive changes. **NOTE: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law grants the authority for this proposed rule. If codified, please give Arkansas Code citation. **Ark. Code Ann. § 6-20-1801 et. seq. and Act 40 and Act 63 of the Second Extraordinary Session of 2003.**
7. What is the purpose of this proposed rule? Why is it necessary? **The purpose of these rules is to establish the requirements for the completion and filing of audits not conducted by Legislative Audit effective beginning on June 30, 2005, for the 2005-2006 fiscal year and each fiscal year thereafter.**
8. Will a public hearing be held on this proposed rule? Yes X No
If yes, please complete the following:
- Date: May 13, 2004**
Time: 10 AM to 12 Noon
Place: ADE Auditorium Little Rock, AR
9. When does the public comment period expire for permanent promulgation? (Must provide a date.) **May 13, 2004**
10. What is the proposed effective date of this proposed rule? (Must provide a date.) **July 1, 2004**
11. Do you expect this rule to be controversial? Yes No X
If yes, please explain.

12. Please give the names of persons, groups, or organizations that you expect to comment on these rules. Please provide their position (for or against) if known.
- Arkansas Association of Educational Administrators
 - Arkansas School Boards Association
 - Arkansas Association of School Business Officials
 - Arkansas Education Association
 - Arkansas Education Service Cooperatives

SUMMARY

The Rules Governing School District Audits Not Conducted by Legislative Audit implement requirements for the completion and filing of audits not conducted by Legislative Audit. Effective June 30, 2005, school districts, open enrollment charter schools, and educational cooperatives must file their audits within nine months of the end of the fiscal year, if they do not use the Division of Legislative Audit.

FINANCIAL IMPACT STATEMENT

DEPARTMENT Education
DIVISION Public School Finance
PERSON COMPLETING THIS STATEMENT Patricia Martin
TELEPHONE NO. 682-5124 FAX NO. 682-9035
EMAIL pmartin@arkedu.k12.ar.us

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules Governing School District Audits Not Conducted by Legislative Audit

1. Does this proposed, amended, or repealed rule or regulation have a financial impact? Yes _____ No x _____
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation? Identify the party subject to the proposed regulation and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

DEPARTMENT OF EDUCATION
FISCAL IMPACT STATEMENT OF PROPOSED REGULATION
(In compliance with Acts 884 and 1253 of 1995)

Regulation Title: **Rules Governing School District Audits Not Conducted by Legislative Audit.**

Summary Description of Regulatory Proposal: **The Rules Governing School District Audits Not Conducted by Legislative Audit implement requirements for the completion and filing of audits not conducted by Legislative Audit. Effective June 30, 2005, school districts, open enrollment charter schools, and educational cooperatives must file their audits within nine months of the end of the fiscal year, if they do not use the Division of Legislative Audit.**

Cite Statutory Authority for this Regulatory Proposal: **Ark. Code Ann. § 6-20-1801 et. seq. and Act 40 and Act 63 of the Second Extraordinary Session of 2003.**

- I. Fiscal Impact on the Department: (include whether impacts are non-recurring or recurring)
 - A. Resources Required - Personnel, equipment, office space.
 - B. Time Required for Implementation.
 - C. Procedural Changes.
 - D. Other.
- II. Fiscal Impact on Local School District or Others? (Include whether impacts are non-recurring or recurring)
 - A. Resources Required - Personnel, equipment, office space.
 - B. Time Required for Implementation.
 - C. Procedural Changes.
 - D. Other.
- III. Additional Comments.

Prepared by: (Name) Patricia Martin
(Title) Assistant Director
(Date) April 8, 2004

ARKANSAS DEPARTMENT OF EDUCATION
PROPOSED RULES GOVERNING THE GUIDELINES, PROCEDURES AND
ENFORCEMENT OF THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL
CHOICE ACT

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Rules, Governing the Guidelines, Procedures, and Enforcement of the Arkansas Opportunity Public School Choice Act.

2.00 AUTHORITY

2.01 The Arkansas State Board of Education's authority for promulgating these rules is pursuant to Ark. Code Ann. § 6-11-105 and § 6-18-227 (as amended by Act 35 of the Second Extraordinary Session of 2003).

3.00 DEFINITIONS

3.01 ADE or Department - the Arkansas Department of Education.

3.02 Level 1 school - a school which, according to the classification system established in Ark. Code Ann. § 6-15-1903 (as amended by Act 35 of the Second Extraordinary Session of 2003), is classified by the Arkansas Department of Education as a "school in need of immediate improvement". Under the classification system established in Ark. Code Ann. § 6-15-1903, Level 1 is the lowest ranking that a school may receive, and Level 5 is the highest ranking.

3.03 Level 3 school - a school which, according to the classification system established in Ark. Code Ann. § 6-15-1903 (as amended byin Act 35 of the Second Extraordinary Session of 2003), is classified by the Arkansas Department of Education as a "school meeting standards".

3.04 Nonresident or receiving district - the public school district to which a student seeks to transfer to under the provisions of Ark. Code Ann. § 6-18-227.

3.05 Resident, sending or transferring district - the public school district in which the student resides and from which a student seeks to transfer under the provisions of Ark. Code Ann. § 6-18-227.

4.00 PROCESS AND PROCEDURES FOR DETERMINING ELIGIBILITY AND APPLICATION PROCEDURES FOR PARTICIPATION IN THE OPPORTUNITY PUBLIC SCHOOL CHOICE PROGRAM

- 4.01 Pursuant to the provisions of Ark. Code Ann. § 6-15-1903 (b)(1) and (c)(1) (contained in Act 35 of the Second Extraordinary Session of 2003), the first school year for which a student shall be eligible to transfer to another school shall be the 2011-2012 school year, unless the resident school applies for an annual performance category level, and receives a "Level 1" classification, prior to the 2009-2010 school year.
- 4.02 Any student may make application to transfer from a failing school (i.e., a school defined in Section 4.03 below) within a school district inside whose boundaries he or she resides to another public school in a nonresident district, subject to the restrictions and procedures contained in these Rules and in Arkansas law.
- 4.03 Upon the request of a parent, guardian or the student (if the student is over eighteen (18) years of age), a student may transfer from his or her resident district to another public school in accordance with these Rules and applicable Arkansas law if:
- (i) The resident public school has been designated pursuant to Ark. Code Ann. § 6-15-1903 as a Level 1 school for two (2) or more consecutive school years (with the first school year being no earlier than the 2009-2010 school year), unless the resident school applies for an annual performance category level, and receives a "Level 1" classification, prior to the 2009-2010 school year, and
 - (ii) The parent, guardian or student (if the student is over eighteen (18) years of age) has notified the Department and both the sending and receiving districts of the request of a transfer no later than July 30 of the year in which the student intends to transfer, and
 - (iii) The public school to which the parent, guardian or the student (if the student is over eighteen (18) year of age) makes application to is classified as a Level 3 school or higher in the most recent annual school classification made by the Department.

- 4.04 The notification referenced in Section 4.03 (ii) above shall be accomplished by way of a completed Arkansas Opportunity Public School Choice application form to be promulgated and made available by the Department.
- 4.05 The opportunity to continue attending school in the receiving district shall remain in force until the student graduates from high school.
- 4.06 All student choice options contained in these Rules are subject to the limitations of Ark. Code Ann. § 6-18-206 (d) through (f) (Arkansas Public School Choice Act).
- 4.07 (i) Within thirty (30) days of the receipt of an application from a nonresident student seeking admission under the terms of this section, the nonresident district shall notify the parent or guardian and the resident district in writing as to whether the student's application has been accepted or rejected.
- (ii) If the application is rejected, the nonresident district must state in the notification letter the reason for rejection.
- (iii) If the application is accepted, the nonresident districts shall state in the notification letter an absolute deadline for the student to enroll in the district, or the acceptance notification is null.
- 4.08 If the requirements of Sections 4.03, 4.04 and 4.06 of these Rules have been met, the nonresident school district shall accept the student for the upcoming school year.
- 4.09 A transfer made under these Rules and applicable Arkansas law shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until either the student completes high school or the parent, guardian or the student (if the student is over eighteen (18) years of age) makes application no later than July 30 for attendance or transfer under the following statutes: Ark. Code Ann. § 6-18-202 ("Age and residence for attending public schools"), § 6-18-206 ("Arkansas Public School Choice Act") or § 6-18-316 ("Transfer on petition of student"). A transfer granted under any of the above statutes shall be effective at the beginning of the next academic year.

- 4.10 The application form shall contain a notice that a transfer under the Arkansas Opportunity Public School Choice Act shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student complete high school, except as otherwise provided by law.

5.00 ALTERNATIVE SCHOOL CHOICE PROCEDURE

- 5.01 The parent or guardian of a student assigned to a school that has been designated as a school in Level 1 under Ark. Code Ann. § 6-15-1903 for two (2) or more consecutive years may choose as an alternative to enroll the student in the public school nearest to the student's legal residence which is classified by the Department as a Level 3 school or higher in the most recent annual school classification.
- 5.02 A school district which receives a request from a student referenced in Section 5.01 shall, after verifying that the student meets the criteria in Section 5.01, accept the student and report the student to the Department for the purposes of funding pursuant to applicable Arkansas law.

6.00 SCHOOL DISTRICT RESPONSIBILITIES

- 6.01 A school district shall, for each student enrolled in or assigned to a school that has been designated as a Level 1 school for two (2) or more consecutive years:
- (i) Provide timely notification to the parent, guardian or the student (if the student is over eighteen (18) years of age), as soon as practicable after such designation is made of all options available under the Arkansas Opportunity Public School Choice Act, and
 - (ii) Offer the parent, guardian or the student (if the student is over eighteen (18) years of age) an opportunity to enroll the student in any public school that has been designated by the Department pursuant to Ark. Code Ann. § 6-15-1903 as a school performing at no less than the Level 3 classification pursuant to the most recent annual school classification.
- 6.02 Any student with disabilities who participates in this public school choice program who is eligible to receive services from a resident school district under Federal or Arkansas law shall remain eligible to receive such services from the receiving school district.

- 6.03 Any funding for a student described in Section 6.02 above shall be transferred to the receiving school district.
- 6.04 Each school district's board shall offer the opportunity public school choice program within its schools, in addition to any other existing school choice program.
- 6.05 Each school district's board shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools.
- 6.06 A receiving school district shall accept credits toward graduation that were awarded by another district.
- 6.07 The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.
- 6.08 For purposes of determining a school district's state equalization aid, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.
- 6.09 All school districts shall report to the Department, on an annual basis, the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of Ark. Code Ann. § 6-18-227 and these Rules.
- 6.10 The Department may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Department so long as thirty (30) calendar days are given between the request for the information and the published deadline.
- 6.11 The receiving school district shall separately report all students who transfer from another public school under Ark. Code Ann. § 6-18-227.
- 6.12 The public school within the receiving school district which provides services to students with disabilities who have transferred into it pursuant to Ark. Code Ann. § 6-18-227 shall receive funding as determined by applicable Federal and Arkansas law.

6.13 A school district which contains one (1) or more school classified as described in Section 4.03 (i) of these Rules shall do the following:

(i) Request public service announcements to be made over the broadcast and print media at such times and in such manner as to inform parents or guardians of students in the adjoining public school districts of the availability of the opportunity public school choice program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

7.00 DEPARTMENT OR STATE RESPONSIBILITIES

7.01 Transportation costs for students transferring under the opportunity public school choice program shall be the responsibility of the state.

7.02 The State's responsibility for transportation costs for a student transferring under the opportunity public school choice program shall cease if the student's resident school achieves a Level 3 or higher classification from the Department in the most recent annual school classification.

7.03 Funding for the transportation costs referenced in Sections 7.01 and 7.02 above shall be included in the base funding amount received by the district from the State, and the school district providing transportation may allocate that portion of the base funding necessary to cover transportation costs arising out of participation in the opportunity public school choice program.

7.04 Upon the occurrence of the event detailed in Section 7.02 above, the transportation costs shall be the responsibility of the student's parents or guardians.

7.05 If the acceptance of students pursuant to the opportunity public school choice program results in a receiving school district incurring expenses for required temporary facilities or faculty, such expenses which exceed the amount of state monies received by the district for the education of such students shall be paid by the State.

7.06 The Department shall develop an annual report on the status of the opportunity public school choice program and deliver the report to the State Board of Education, the Governor, and the Legislative Council at least ninety (90) days prior to the commencing of the regular session of the General Assembly.

8.00 PARENTAL AND STUDENT RESPONSIBILITIES

- 8.01 Any student participating in the opportunity public school choice program shall remain in attendance at the receiving public school throughout the school year, unless excused by the school for illness or other good cause, and shall fully comply with the school's code of conduct.
- 8.02 The parent or guardian of each student participating in the opportunity public school choice program shall fully comply with the receiving public school's parental involvement requirements, unless excused by the school for illness or other good cause.
- 8.03 The parent or guardian shall ensure that the student participating in the opportunity public school choice program takes all statewide assessments, including, but not limited to, Benchmark exams, required pursuant to Ark. Code Ann. § 6-15-433.
- 8.04 A participant who fails to comply with the provisions of Ark. Code Ann. § 6-18-227, shall forfeit the opportunity public school choice program option.